

CALIFORNIA CODES  
WELFARE AND **INSTITUTIONS CODE**  
SECTION **4000-4027**

**4000.** There is in the Health and Welfare Agency a State Department of Mental Health.

4001. As used in this division:

- (a) "Department" means the State Department of Mental Health.
- (b) "Director" means the Director of Mental Health.
- (c) "State hospital" means any hospital specified in Section 4100.

4004. The department is under the control of an executive officer known as the Director of Mental Health.

4005. With the consent of the Senate, the Governor shall appoint, to serve at his pleasure, the Director of Mental Health. He shall have the powers of a head of a department pursuant to Chapter 2 (commencing with Section 11150), Part 1, Division 3, Title 2 of the Government **Code**, and shall receive the salary provided for by Chapter 6 (commencing with Section 11550), Part 1, Division 3, Title 2 of the Government **Code**.

Upon recommendation of the director, the Governor may appoint a chief deputy director of the department who shall hold office at the pleasure of the Governor. The salary of the chief deputy director shall be fixed in accordance with law.

4005.1. The department may adopt and enforce rules and regulations necessary to carry out its duties under this division.

4005.4. All regulations heretofore adopted by the State Department of Health pursuant to authority now vested in the State Department of Mental Health by Section 4005.1 and in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the Director of Mental Health.

4006. With the approval of the Department of Finance and for use in the furtherance of the work of the State Department of Mental Health, the director may accept any or all of the following:

- (a) Grants of interest in real property.
- (b) Grants of money received by this state from the United States,

the expenditure of which is administered through or under the direction of any department of this state.

(c) Gifts of money from public agencies or from persons, organizations, or associations interested in the scientific, educational, charitable, or mental health fields.

4007. The department may expend in accordance with law all money now or hereafter made available for its use, or for the administration of any statute administered by the department.

4008. (a) The department may expend money in accordance with law for the actual and necessary travel expenses of officers and employees of the department who are authorized to absent themselves from the State of California on official business.

(b) For the purposes of this section and of Sections 11030 and 11032 of the Government **Code**, the following constitutes, among other purposes, official business for officers and employees of the department for which these officers and employees shall be allowed actual and necessary traveling expenses when incurred either in or out of this state upon approval of the Governor and Director of Finance:

(1) Attending meetings of any national or regional association or organization having as its principal purpose the study of matters relating to the care and treatment of mentally ill persons.

(2) Conferring with officers or employees of the United States or other states, relative to problems of institutional care, treatment or management.

(3) Obtaining information from organizations, associations, or persons described in paragraphs (1) and (2) which would be useful in the conduct of the activities of the State Department of Mental Health.

4009. The department may appoint and fix the compensation of such employees as it deems necessary, subject to the laws governing civil service.

4010. Except as in this chapter otherwise prescribed, the provisions of the Government **Code** relating to state officers and departments shall apply to the State Department of Mental Health.

4011. Unless otherwise indicated in this **code**, the State Department of Mental Health has jurisdiction over the execution of the laws relating to the care, custody, and treatment of mentally disordered persons, as provided in this **code**.

As used in this division, "establishment" and "institution" include every hospital, sanitarium, boarding home, or other place receiving or caring for mentally disordered persons.

4011.5. In counties where State Department of Mental Health hospitals are located, the state hospitals shall ensure that appropriate special education and related services, pursuant to Chapter 8 (commencing with Section 56850) of Part 30 of the Education **Code**, are provided eligible individuals with exceptional needs residing in state hospitals.

4012. The State Department of Mental Health may:

(a) Disseminate educational information relating to the prevention, diagnosis and treatment of mental disorder.

(b) Upon request, advise all public officers, organizations and agencies interested in the mental health of the people of the state.

(c) Conduct such educational and related work as will tend to encourage the development of proper mental health facilities throughout the state.

(d) Coordinate state activities involving other departments whose actions affect mentally ill persons.

(e) Coordinate with, and provide information to, other states and national organizations, on issues involving mental health.

(f) Disseminate information and federal and private foundation funding opportunities to counties and cities that administer mental health programs.

4012.5. The State Department of Mental Health may obtain psychiatric, medical and other necessary aftercare services for judicially committed patients on leave of absence from state hospitals by contracting with any city, county, local health district, or other public officer or agency, or with any private person or agency to furnish such services to patients in or near the home community of the patient. Any city, county, local health district, or other public officer or agency authorized by law to provide mental health and aftercare services is authorized to enter such contracts.

4015. (a) The State Department of Mental Health shall, in coordination with the task force described in subdivision (c) and with other state entities, including, but not limited to, the Department of General Services, the State Department of Developmental Services, the Secretary of State, and the California State Library, do all of the following:

(1) Conduct and complete inventories of all of the following:

(A) All materials and records necessary to create the most complete record of persons who died while residing at any state hospital as defined in Section 7200, or any developmental center as defined in Section 4440.

(B) Within existing resources, identify the location of all gravesites at existing state hospitals and developmental center lands and of gravesites not located on state lands but designated by the state for burial of state hospital or developmental center residents.

This shall include the location of remains that may have been moved from their original burial site and the location of grave markers that may have been moved from gravesites.

(C) Within existing resources, identify the names of patients whose remains were donated for medical research, the entity to which the remains were donated, and the final disposition of those remains.

(2) Assist and cooperate with the California Memorial Project in conducting research regarding the records of deaths and burials of persons at state hospitals and developmental centers and cemeteries based on the grounds of these facilities. This assistance shall, subject to paragraph (3), include the granting of access to those state records as necessary to perform the inventories described in this section.

(3) Notwithstanding Sections 4514 and 5328 or any other provision of law regarding confidentiality of patient records, the information described in this section shall be limited to the name, date of birth, date of death, and photographic images of any person who died while in residency at any state hospital or developmental center and shall be made available for the purposes of the implementation of this section. The exportation and use of these records or photographic images from state facilities shall be limited to the information delineated within, and the purposes of, this section.

(4) Assist the California Memorial Project in developing a plan for the restoration of gravesites and cemeteries at state hospitals and developmental centers and gravesites not located on state lands but designated by the state for burial of state hospital or developmental center residents.

(5) Notwithstanding Sections 4514 and 5328 or any other provision of law governing the confidentiality of patient records, with respect to any monument or memorial erected consistent with this section, the department may include, if available, the name, date of birth, and date of death, of any person being memorialized who died while in residency at a state hospital or developmental center and who was buried by the state.

(6) Develop a protocol for the future interment of patients who die while residing at a state hospital or developmental center and are unclaimed by a family member.

(b) The department may develop a protocol to coordinate the efforts of the state entities described in subdivision (a).

(c) (1) The department shall establish a task force to provide leadership and direction in carrying out the activities described in this section. The task force shall consist of representatives selected by each of the following entities:

(A) The Peer Self-Advocacy Unit of Protection and Advocacy, Inc.

(B) California Network of Mental Health Clients.

(C) Capitol People First.

(2) To the extent that funding is available, task force members shall be reimbursed for necessary travel expenses associated with serving on the task force. When requested by a task force member with a disability, the state shall pay the cost of a facilitator chosen by the task force member.

(d) In implementing this section, the state shall make no structural changes to existing gravesites on state hospital or developmental center lands prior to the submission of, and which do not conform with, the restoration plan described in paragraph (4) of subdivision (a).

(e) Pursuant to the plan described in paragraph (4) of subdivision

(a), the department shall seek funding for this section from the California Cultural and Historical Endowment, in addition to any other resources that may be available to the department, excluding General Fund moneys, to restore, preserve, and memorialize the gravesite located at Napa State Hospital.

(f) The department shall submit a status update on the implementation of this section, including a description of barriers, if any, to conducting the activities described in this section, to the Legislature by January 31, 2004.

4016. In every place in which a mentally disordered person may be involuntarily held, the persons confined therein shall be permitted access to and examination or inspection of copies of this **code**.

4017. (a) The department may provide information to the Controller to guide distribution of resources dedicated for mental health services under Chapter 6 (commencing with Section 17600) of Part 5 of Division 9, and may distribute to a county or combination of counties acting jointly resources described in Part 2 (commencing with Section 5600) of Division 5, pursuant to Section 5701.

(b) The department may contract with a county or combination of counties for services described in this division and Division 5 (commencing with Section 5000), to the extent that those services are funded directly by the department.

4021. When the department has reason to believe that any person held in custody as mentally disordered is wrongfully deprived of his liberty, or is cruelly or negligently treated, or that inadequate provision is made for the skillful medical care, proper supervision, and safekeeping of any such person, it may ascertain the facts. It may issue compulsory process for the attendance of witnesses and the production of papers, and may exercise the powers conferred upon a referee in a superior court. It may make such orders for the care and treatment of such person as it deems proper.

Whenever the department undertakes an investigation into the general management and administration of any establishment or place of detention for the mentally disordered, it may give notice of such investigation to the Attorney General, who shall appear personally or by deputy, to examine witnesses in attendance and to assist the department in the exercise of the powers conferred upon it in this **code**.

4022. When complaint is made to the department regarding the officers or management of any hospital or institution for the mentally disordered, or regarding the management of any person detained therein or regarding any person held in custody as mentally disordered, the department may, before making an examination regarding such complaint, require it to be made in writing and sworn to before an officer authorized to administer oaths. On receipt of such a complaint, sworn to if so required, the department shall

direct that a copy of the complaint be served on the authorities of the hospital or institution or the person against whom complaint is made, together with notice of the time and place of the investigation, as the department directs.

4024. The State Department of Mental Health proposed allocations for level-of-care staffing in state hospitals that serve persons with mental disabilities shall be submitted to the Department of Finance for review and approval in July and again on a quarterly basis. Each quarterly report shall include an analysis of client characteristics of admissions and discharges in addition to information on any changes in characteristics of current residents.

The State Department of Mental Health shall submit by January 1 and May 1 to the Department of Finance for its approval: (a) all assumptions underlying estimates of state hospital mentally disabled population; and (b) a comparison of the actual and estimated population levels for the year to date. If the actual population differs from the estimated population by 50 or more, the department shall include in its reports an analysis of the causes of the change and the fiscal impact. The Department of Finance shall approve or modify the assumptions underlying all population estimates within 15 working days of their submission. If the Department of Finance does not approve or modify the assumptions by such date, the assumptions, as presented by the submitting department, shall be deemed to be accepted by the Department of Finance as of that date. The estimates of populations and the comparison of actual versus estimated population levels shall be made available to the Joint Legislative Budget Committee immediately following approval by the Department of Finance.

The Department of Finance shall also make available to the Joint Legislative Budget Committee a listing of all of the approved assumptions and the impact of each assumption, as well as all supporting data provided by the State Department of Mental Health or developed independently by the Department of Finance. However, such departmental estimates, assumptions, and other supporting data as have been prepared shall be forwarded to the Joint Legislative Budget Committee not later than January 15 or May 15 by the State Department of Mental Health in the event this information has not been released earlier.

4024.5. (a) The State Department of Mental Health and the State Department of Alcohol and Drug Programs, jointly, shall develop a plan, by July 1, 1994, to appropriately combine funding from both departments for the treatment of persons with multiple diagnoses.

(b) For purposes of this section, "multiple diagnoses" means diagnoses of chronic mental illness together with substance abuse of either illegal or legal drugs, including alcohol, or both.

4025. Charges made by the department for the care and treatment of each patient in a facility maintained by the department shall not exceed the actual cost thereof as determined by the director in accordance with standard accounting practices. The director is not

prohibited from including the amount of expenditures for capital outlay or the interest thereon, or both, in his determination of actual cost.

As used in this section, the terms "care" and "care and treatment" include care, treatment, support, maintenance, and other services rendered by the department to a patient in the state hospital or other facility maintained by or under the jurisdiction of the department.

4027. The State Department of Mental Health may adopt regulations concerning patients' rights and related procedures applicable to the inpatient treatment of mentally ill offenders receiving treatment pursuant to Sections 1026, 1026.2, 1364, 1370, 1610, and 2684 of the Penal **Code**, Section 1756 of the Welfare and **Institutions Code**, persons receiving treatment as mentally disordered sex offenders, and inmates of jail psychiatric units.